REMARKS

Claims 1-35 remain in this application. Claims 4, 9, 15-16 and 29-31 have been amended. No new matter has been added. Reconsideration of the above-identified application is respectfully requested.

Rejection of Claims 20, 21 and 35 under 35 U.S.C. §101

In paragraph 2, the Examiner rejected Claims 20, 21 and 35 under 35 U.S.C. §101 stating that the claimed invention is directed to a non-statutory subject matter. Specifically, the Examiner stated that the claimed "computer data signal" at the beginning of the preamble does not appear to fall in a recognized class of invention. The Examiner also stated that claim 21 is rejected as being dependent thereon.

The MPEP section 2106 IV(B)(1)(c) entitled "Natural Phenomena Such as Electricity and Magnetism" provides that "a signal claim directed to a practical application of electromagnetic energy is statutory regardless of its transitory nature." The section further provides that a claim is limited to a practical application when the method, as claimed, produces a concrete, tangible and useful result; i.e. the method recites a step or act of producing something concrete, tangible and useful.

In the present invention, the method claims recite steps which produce something concrete and useful. It is therefore respectfully requested that the §101 rejection of claims 20, 21 and 35 be withdrawn.

Rejection of Claims 10-16 under 35 U.S.C. §112

In paragraph 4, the Examiner rejected Claims 4, 9, 15-16, 20-21, 29-31 and 35 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out the invention. Specifically, the Examiner stated that claims 20, 21 and 35 are confusing because while the independent claims recite non-statutory subject matter, at the end of the preamble, there is recited "a method comprising the steps of." The Examiner also stated that claim 21 is rejected as being dependent thereon.

As stated above, claims 20, 21 and 35 are statutory subject matter. It is therefore respectfully requested that the §112 rejection of claims 20, 21 and 35 be withdrawn.

Claims 4 and 9 have been amended to recite "a" instead of "the" for price and local currency in claim 4 and market in claim 9. Therefore the antecedent basis for these limitations have been corrected. It is therefore respectfully requested that the §112 rejection of claims 4 and 9 be withdrawn.

Claims 15 and 16 have been amended to delete "type" from brick and mortar retail setting. Therefore the claims are no longer indefinite. It is therefore respectfully requested that the §112 rejection of claims 15 and 16 be withdrawn.

Claims 29-31 have been amended to depend from independent claim 23. Therefore the claims are no longer repetitive. It is therefore respectfully requested that the §112 rejection of claims 29-31 be withdrawn.

<u>Rejection of Claims 1-3, 6-7, 9-14, 16-21, 23-27, 29-30 and 32-36 under 35 U.S.C. §102(e) & §103(a)</u>

In paragraph 5, Claims 1-3, 6-7, 9-14, 16-21, 23-27, 29-30 and 32-36 were rejected under 35 U.S.C. §102(e) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Garber (5,963,923) (hereafter Garber). Applicants assert that none of the cited art disclose or suggest all of the limitations of the claims.

The present invention pertains to a method and system for implementing a predetermined currency price for sales which are transacted within a predetermined time period. The invention provides for continued risk assessment either in real time, at specified time intervals, or upon demand. A computerized communications network is used to input market data relating to a currency involved as well as sales volume transacted in that currency to calculate a current risk exposure.

According to the disclosure, Garber describes a system and method for linking a Rolling Spot Currency contract with a Principle Market Marker (PMM) program for the purpose of risk management in currency trading. The PMM specialist program is designed to replicate an over-the-counter bank trading environment by merging the best aspects of a specialist system-a combined trader and broker, charged with the responsibility of making a sized two-sided, bid/offer market-with a traditional futures pit trading environment. In addition, the method may include steps of receiving and transmitting bids and offers for publicly traded currencies; storing the received bids and offers in a memory; identifying and executing the matching bids and offers; identifying unmatched bids and offers; and providing a complementary trade to maintain

a market for such currencies. The merger of the PMM specialist and the Rolling Spot Currency results in increased volume and open interest in both currency futures and currency options, greater ability to utilize modern risk transfer techniques to reduce risk and increase person-to-person servicing and marketing in the foreign exchange market, a more stable financial environment because of exchange dictated clearing considerations and regulations, and the convenience of a 24-hour electronic futures market place for all currency traders and financial institutions worldwide.

The Examiner states that an exchange rate for a foreign currency is inherently entered into a computer as a foreign currency relates to a base currency, or in the alternative, that it would have been obvious to one with ordinary skill in the art to modify Garber to include such since Garber teaches entering inventory orders that include an exchange rate associated with the order.

Garber does not teach entering an exchange price for a foreign currency into computer as the foreign currency relates to a base currency, entering a price for a commodity into a computer or entering a need into a transaction forum. Additionally, Garber does not teach exchanging currency according to the entered price and received data descriptive of the transaction. The PMM/Rolling Spot Futures computer receives trades from a host routing routine and the PMM/Rolling Spot Options computer receives trades from the PMM/Rolling Spot Futures computer.

Anticipation of a claim exists only if the prior art reference discloses every element of the claim. Here the Examiner improperly used Garber to fill in the gaps which fails to show how the

Garber reference teaches in accordance with the limitations of the present invention. The Examiner has not met the burden of providing a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic of entering an exchange price necessarily flows from the teaching of the applied prior art.

Furthermore, the Examiner has not presented a prima facie case of obviousness for this limitation showing some motivation or suggestion in the prior art to make the claimed invention. The Examiner's position that it would have been obvious to modify Garber to include entering an exchange rate for foreign currency is no substitute for prior art showing this limitation. In the absence of any prior art supporting the rejection of this claim, the rejection should be withdrawn.

Garber also does not teach that a transaction occurs within a predetermined time period or determining a time period for which an exchange will be applied. The PMM/Rolling Spot Futures computer receives a primary bank order to purchase or sell currency and decides whether a trade will be executed. The Spot Futures computer then purchases or sells the reciprocal amount from the PMM/Rolling Spot Options computer thereby countering the risk associated the purchase or sale. The Spot Option computer makes transactions with the options trading crowd and disperses the risk among the traders. No predetermined time period is mentioned in Garber. In the present case, a predetermined time period may be a calendar day, a week or a month. The time period may also be more exacting.

Garber does not teach determining a risk exposure for the predetermined time period that is based upon an aggregate amount of currency involved in transactions during the predetermined time period or limiting the size of the aggregate amount to be transacted during a

predetermined time period. Nor does Garber teach aggregating transaction amounts relating to multiple transactions and exchanging currency according to an entered price in an amount equal to the aggregate amount. Garber makes no mention of aggregate amounts of currency.

Garber does not disclose that the risk exposure is additionally based upon market data. In Garber, the PMM/Rolling Spot Futures computer transfers the risk to the PMM/Rolling Spot Options computer by purchasing reciprocal amounts of options. The PMM/Rolling Spot Options computer then transfers the risk to a multitude of traders. There is no mention in Garber of the risk exposure being based upon market data.

Garber does not disclose receiving bids in an online auction and posting online each bid in a local currency and a seller's currency. Garber does not mention an online auction.

Garber does not teach a transaction occurring between a brick and mortar financial institution setting. Garber discloses an electronic brokerage and trading network between banks and other qualified financial institutions.

Garber does not disclose limiting a change in spot price of the foreign currency and changing the exchange price if the change in spot price exceeds the limit. The PMM/Rolling Spot Futures Computer and Spot Options Computer decide whether a trade will be executed.

Garber does not teach presenting a request for bids on a transaction forum. Garber receives and transmits bids.

Garber does not teach executable software stored on a server and executable upon demand via a network access device, computer executable program code residing on a computer-readable medium or a computer data signal embodied in a digital data stream.

As stated above, anticipation of a claim exists only if the prior art reference discloses every element of the claim. Therefore, in order for the anticipation to exist, the claimed subject matter must be shown in the drawings or disclosed in the description of the cited prior art. Moreover, the Examiner is required to indicate where a particular reference teaches the feature in question. Garber does not disclose each and every element recited in the claims of the present invention and the Examiner has cited no reference to support this statement. Therefore, the anticipation standard is not met.

Furthermore, the Examiner has not presented a prima facie case of obviousness for these limitations showing some motivation or suggestion in the prior art to make the claimed invention. In the absence of any prior art supporting the rejection of these claims, the rejection should be withdrawn.

Additionally, it is submitted that dependent claims are allowable for the reasons set forth above and for the reasons set forth with respect to independent claims 1, 17-20, 23, 32, 34-36 and their dependency thereon. Therefore, it is Applicants' contention that Garber does not anticipate claims 2,3 6-7, 9-14, 16, 24-27 and 29-30.

Based on the above, it is submitted that claims 1-3, 6-7, 9-14, 16-21, 23-27, 29-30 and 32-36 are patentable over the cited prior art. Therefore, it is respectfully requested that the rejections on the stated grounds be withdrawn.

Rejection of Claims 4-5, 8, 15, 28 and 31 under 35 U.S.C. §103(a)

In paragraph 8, claims 4-5, 8, 15, 28 and 31 were rejected under 35 U.S.C. §103(a) as being unpatentable over Garber as applied to claims 1-3, 6-7, 9-14, 16-21, 23-27, 29-30 and 32-36, and further in view of Boesch et al. (5,897,621) (hereafter Boesch).

As stated above, Garber describes a system and method for linking a Rolling Spot Currency contract with a Principle Market Marker (PMM) program for the purpose of risk management in currency trading according to the disclosure.

Boesch, according to the disclosure, describes a system and method for determining approval of a multi-currency transaction between a customer and a merchant over a network. In addition, the merchant and customer computers each include, respectively, a data set containing a product price at which the merchant agrees to sell the product in a merchant specified currency, and a data set which contains an amount the customer is willing to pay the merchant for a product in a customer specified currency. Furthermore, a centralized server, upon receipt of the first data set and the second data set, converts the amount in the first currency into a converted amount in the second currency, and approves the transaction if the converted amount, and approves the transaction if the converted amount in the second currency is within the risk range of the product price in the second currency in accordance with the current exchange rates. Once the transaction is approved, the approving entity may settle the transaction at its discretion thereby bearing the risk associated with the currency exchange. The parties, however, incur no risk. The customer will pay the amount in the first currency and the merchant will receive the

amount in the second currency. These values are known and agreed to by the parties at the time of the transaction.

First, by reason of their dependency on claims 1 and 23, and because of the arguments set forth above with respect to Garber, Applicants assert that claims 4-5, 8, 15, 28 and 31 are also patentable over the cited prior art.

Furthermore, the Applicants submit that the Examiner has failed to establish a reason why Garber and Boesch are combinable such that these references arrive at the claimed invention. Applicants further assert that even if Garber and Boesch can be combined, the combination does not render the present invention obvious because there is no suggestion or motivation to combine the teachings of the references.

The Garber system provides an electronic trade exchange system for making two-sided bid/offer market in a traditional pit trading environment. It provides an active interbank exchange traded currency market. The PMM/Rolling Spot Currency system of Garber facilitates numerous types of derivative currency trades including forward spread, forward outright, currency swap, odd value and odd date, and covered interest rate arbitrage. Garber does not contemplate a system and method for determining approval of multi-currency transactions for goods and services between a customer and a merchant over a network as taught in Boesch.

Furthermore, neither Garber nor Boesch teach that the online transaction occurs within a brick and mortar retail setting. Nor do the references teach an completing a business to business supply order transaction.

As stated above, the Examiner has not presented a prima facie case of obviousness for these limitations showing some motivation or suggestion in the prior art to make the claimed invention. Moreover, the claimed subject matter must be shown in the drawings or disclosed in the description of the cited prior art. The Examiner is required to indicate where a particular reference teaches the feature in question. In the absence of any prior art supporting the rejection of these claims, the rejection should be withdrawn.

For the reasons set forth above, it is the Applicants' contention that the present invention is not obvious in view of the prior art, taken alone or in combination with each other. It is therefore respectfully requested that the rejection with respect to claims 4-5, 8, 15, 28 and 31 be withdrawn.

Conclusion

In view of the above presented amendments and remarks, the Applicants believe that all claims in this application are in condition for allowance. Reconsideration of claims 1-21 and 23-36 is respectfully requested.

The Examiner's prompt attention to this matter is greatly appreciated. If the Examiner feels that it might be helpful in advancing this application to issuance by calling the undersigned, the Applicant would greatly appreciate such a telephone interview.

The Commissioner is authorized to charge any overpayment or credit to Deposit Account No. 50-0521 for any matter in connection with this response, including any fee for extension, which may be required.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached pages are captioned "**Version with Markings to show changes made.**"

Applicants respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

Dated: May 2, 2002

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Specification:

Paragraph beginning at line 14 of page 2 has been amended as follows:

Currency price can be determined with a projected sales volume as well as market data. Sales volume can be calculated, for example, by extrapolating current sales data. In addition, a currency price can be negotiated using a step model wherein a currency price is determined based upon actual sales. For example, a first currency price can be available when an aggregated sales amount total falls within a first step of between $0 and $10,000. A second currency price can be available when the sum of the aggregated sales falls within $10,001 to $100,000. Still another currency price is available for the step ranging from $100,000 to $1,000,000, etc. An electronic sales agent (e-commerce participant) can thereby be better positioned to offer a consumer competitive pricing by zeroing out the e-commerce participant's exposure to changes in currency price[?]. In addition, the e-commerce participant and the consumer are insulated from fluctuations in a currency price.

Paragraph beginning at line 18, page 6 has been amended as follows:

Typically, a host computer will be supported by an e-commerce participant or a financial institution. The host 150 may include multiple processing and database subsystems, such as cooperative or redundant processing and/or database servers, which can be geographically dispersed throughout the network 100. In some implementations, groups of e-commerce participant computers 105-106 may communicate with a host 150 through a local network 15[6]5. The local network 155 can also include a local server such as a proxy server or a caching server.

Paragraph beginning at line 13, page 7 has been amended as follows:

Computers 101-107 [150] in an Online Risk Management system may be connected to each other by one or more network interconnection technologies. For example, dial-up lines, token-ring and/or Ethernet networks 110, 140, T1 lines, asynchronous transfer mode links,

digital subscriber lines (DSL), wireless links and integrated service digital network (ISDN) connections may all be combined in the network 100. Other packet network and point-to-point interconnection technologies may also be used. Additionally, the functions associated with separate processing and database servers in a host 150 may be integrated into a single server system or may be partitioned among servers and database systems that are distributed over a wide geographic area.

Paragraph beginning at line 31, page 9 has been amended as follows:

Embodiments can also include a buyer that is an individual consumer or a corporate entity which accesses an Internet e-commerce site to purchase a good or service, wherein the good or service has been priced in the buyer's local currency. Referring now to Fig. 3b, another embodiment of the present invention allows a seller 321 to access an e-[buyer]<u>seller</u> site 322. The embodiment is particularly useful to address the needs of a corporate buyer. The corporate buyer, or a private individual, can post their current needs on an e-commerce site acting as an e-buyer site. For example, current needs can be displayed as a request for bids on a required good or service. An e-seller 321 can submit a quote, or other offer to sell to the e-seller site 322. Typically, the quote will be sent electronically, such as through an online bid form hosted by the e-buyer site 322. However, more traditional quotes, such as a verbal quote, a facsimile or a hardcopy can also be received by the e-buyer site 322 and entered into an underlying computer communications system.

Paragraph beginning at line 19, page 10 has been amended as follows:

Referring now to Fig. 4a, a block diagram illustrates an embodiment of the invention. A seller 411 communicates with one or more buyers 414-417 via a communications network 413. The [buyer] <u>seller</u> 411 can facilitate the communication by hosting a transaction forum 412. Typical transaction forums include an Internet site, a proprietary network or a dial up network, although other types of forums are within the scope of the invention. Details of a transaction involving the seller 411 and a buyer 414-417 are communicated to a Currency Exchange

Institution 314 via a delivery medium 418. The delivery medium can include, for example, a host computer 150, a network interface, a router or any other electronic medium capable of interfacing between the transaction forum and the Currency Exchange Institution. The delivery medium 418 can communicate via a link 419 with the communications network 413, or be directly connected to the transaction forum 412, such as, for example, through a direct feed 410.

In the Claims:

Claims 4, 9, 15-16 and 29-31 have been amended as follows:

4) (Amended) The method of claim 1 additionally comprising capturing each transaction amount that relates to a sale occurring on an e-commerce site and automatically exchanging currency at a [the] price entered for a [the] local currency.

9) (Amended) The method of claim 1 additionally comprising obtaining a spot price from a [the] market at the time of the transaction.

15) (Amended) The method of claim 1 wherein the transaction occurs within a brick and mortar [type] retail setting.

16) (Amended) The method of claim 1 wherein the transaction occurs within a brick and mortar [type] financial institutional setting.

29) (Amended) The method of claim 23 [1] additionally comprising receiving bids in an online auction and posting online each bid in a local currency and a seller's currency.

30) (Amended) The method of claim 23 [1] wherein the transaction is a business to business transaction.

31) (Amended) The method of claim 23 [1] wherein the transaction is an online sales transaction consummated over a computerized communications network.